

SPECIAL EDUCATION MEDIATION IN IDAHO

MANAGING PARENT AND SCHOOL CONFLICT THROUGH EFFECTIVE COMMUNICATION

If conflict occurs between a parent and school personnel regarding the educational program of a special education student, mediation provides a non-adversarial alternative to resolve the dispute.

Mediation is a structured, yet informal, voluntary process in which an impartial third party, a mediator, helps parents and school personnel who are experiencing conflict to reach a suitable agreement. Mediation builds positive working relationships, encourages mutual understanding, and helps parents and school personnel focus on their common interest—the student.

Section 1.01 Section 1. Mediation in Idaho

The mediation process:

1. May resolve disputes regarding the identification, evaluation, educational placement, or related services for students with disabilities;
2. Clarifies areas of agreement and disagreement; and
3. Fosters better relationships between parents and schools

Section 1.02 Section 2. Requesting Mediation

An oral or a written request for mediation may be made to the SDE by the parent of a student with a disability, a legal guardian, a surrogate parent, or the district. In addition, the SDE will encourage parents and districts to participate in mediation when it seems appropriate. Following a request for mediation, the SDE will make every effort to complete the process within 21 days.

A request for mediation:

1. Is appropriate when parents and/or schools are unwilling or unable to modify their position without outside assistance;
2. May occur when parents and schools, after making a good-faith effort, face an impasse in attempting to resolve the conflict; and
3. Can be scheduled prior to, or concurrent with, a request for a due process hearing.

Section 1.03 Section 3. Proposed Mediation by the SDE

The SDE will automatically offer mediation to resolve a dispute between parents and the district:

1. When there is a formal request for a due process hearing; and
2. At any other time the SDE deems the use of mediation appropriate.

Section 1.04 Section 4. Appointment of a Mediator

The SDE maintains a list of qualified mediators. When both parties in a dispute agree to mediate, every attempt will be made by the SDE to appoint a mediator within 3 business days of the request. A mutually agreed upon time, date, and place of the mediation will be coordinated by the mediator.

If a due process hearing has been requested, the SDE will use a rotation list to select the mediator or both parties will be involved in and agree with the selection of the mediator.

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If a due process hearing has been requested, the mediator may not be an employee of any district or state agency providing publicly funded services under the IDEA 2004 and co-mediators may not be used.

Section 1.05 Section 5. The Mediator

A mediator is a neutral third party trained in communication, problem-solving and negotiation skills, and specific mediation techniques who acts as a facilitator to assist s and schools in resolving conflicts. The mediator:

1. Educates the parties about the mediation process.
2. Establishes the ground rules for all parties to follow.
3. Guides the process.
4. Encourages open and honest communication.
5. Ensures that each party is heard.
6. Rephrases information and summarizes issues.
7. Facilitates the writing of the agreement.

Section 1.06 Section 6. Roles of Parents and Schools

It is in the best interest of all parties, including the student, to explore mediation as a means to an informal resolution of the conflict. Parents and school personnel play a very important role in mediation. As active participants, each party can help design a mutually agreeable solution.

Section 1.07 Section 7. Prior to the Mediation

The SDE will provide:

1. Formal notification to the disputing parties of the mediator appointed.
2. A copy of Special Education Mediation in Idaho and the Procedural Safeguards Notice to each party.
3. A copy of the "Confidentiality Pledge" to the parent, district, and mediator. The parties should review the pledge, come to the mediation with any questions regarding confidentiality, and be prepared to sign the pledge.

The mediator will:

1. Contact the parties to explain the mediation process, identify issues, and help the parties establish a date, time, and place to hold the mediation.
2. Assist in determining who will attend the mediation session and inform the parties that participants need to be knowledgeable about the student and of available resources or services the student may need.
3. Advise the SDE of the names of all parties who will participate in the mediation session.

The parent and district will:

1. Determine who will attend the mediation session and advise the mediator of their choices.

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2. Advise the mediator that the individual(s) with authority to commit resources and make final resolution decisions will participate in the mediation session.

Section 1.08 Section 8. Preparing for the Mediation Session

The following guidelines can help participants prepare for the mediation session:

1. Keep your schedule free and be willing to give at least one full day to the mediation process.
2. Put aside personality conflicts and center on the educational interests of the student.
3. Approach mediation in good faith.
4. Be open, honest, and willing to listen.
5. Be familiar with all documents related to the dispute, including the Individualized Education Program (IEP).
6. Organize your information and materials.
7. Set goals you would like to achieve during the session.
8. Be open to alternatives.

Section 1.09 Section 10. The Mediation Session

Every mediator has his or her own personal style of conducting a mediation. Participants should feel free to ask questions and seek clarification on any issue during the session. The mediation may include the following stages:

1. **Introduction:** The mediator will explain the process, set the ground rules for all parties, respond to questions, and encourage the parties from the onset to deal with issues – not personalities.
2. **Identification of issues:** Each party will have an opportunity, without interruption, to identify issues and share information. The mediator may seek additional information or summarize the issues.
3. **Expression of interests:** At this stage, the mediator helps the parties identify their interests (those factors underlying their issues). Goals, needs, beliefs, hopes, and fears are expressed, explored, and clarified.
4. **Caucus:** On occasion, issues and underlying interests may not be clear. Opportunity is provided for each party to “caucus” with the mediator for the purpose of sharing information or seeking clarification about the issues. The mediator will not disclose information from caucus sessions without consent.
5. **Recess:** A break may be requested by any participant during the session. This time provides an excellent opportunity for all parties to gather their thoughts and absorb what has transpired.
6. **Creating alternatives:** After the basic issues and interests have been identified, discussed, and clearly understood by all parties, the mediator will assist the parties in identifying or developing options to resolve the conflict. At any time during an open session or in a caucus, either party may propose solutions.

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7. **Developing and writing a plan:** The ultimate goal of mediation is to obtain a written resolution to the conflict. The parties establish the terms of the agreement. The mediator writes the final agreement, which is signed by the parent(s), school representatives, and mediator. Each party retains a copy of the agreement. If an agreement involves proposed changes to a student's IEP, an IEP team meeting should be convened as soon as possible.
8. **Implementation:** For the final agreement to work effectively, its provisions shall be implemented. The signed agreement demonstrates a commitment by both parties to abide by the conditions of the agreement. Ultimately, it is the responsibility of the parties to fulfill their obligations.

For additional information, contact:

Dispute Resolution Coordinator

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	208-736-4263	Twin Falls
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Comprehensive Advocacy, Inc. (Co-Ad)

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